IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.2468 OF 2005

Raju Balkrishna Bhise .... Petitioner

versus

State of Maharashtra & ors... Respondents

Ms.Sonia Miskin, Advocate for Petitioner

Ms.S.D.Shinde,A.P.P. for Respondents

CORAM : J.N.PATEL AND
SMT.ROSHAN DALVI, JJ
DATED : 13th September, 2006

P.C.

1. Heard.

2. We have gone through the report of the Commissioner appointed by this Court i.e. Dr. Venkat Gunale, Reader, Department of Botany

University of Pune, and we are satisfied that there has been illicit felling of trees within the campus of Central Prison, Yerawada, Pune but we should also appreciate the concern shown by the prisoner as in the report placed before us, the concluding comments of Dr. Gunale are very material and are as under :

> " After the visit to the various sites, I could only see large number of Nilgiri trees along the road side from Tingarenagar to airport. This side need to have good permanent wall in order to protect old and new trees as also from security point. It may be pointed out that authorities have planted lot of trees to convert open degraded land to have vegatation cover with Teak, Mango, Neem, Awala etc. The branches of trees were cut to make enclosure for the guards and visitors room. No sign of large of number of trees removed or cut. "

3. In so far as the last comment is concerned, ’no sign of large scale removal of trees or cut’shows that there has been illicit felling of trees, but not in a large scale. There was some felling of trees which the learned Commissioner has expressed was for the purpose of preparing enclosures for the guard and visitors that the branches of trees were cut. We are not aware as to whether these branches of the trees were cut after taking permission of the concerned Tree Officer under the Tree Authority

Act.

4. The most important aspect which has been brought to our notice is that Prof. Gunale has expressed in his first comment that along the roads going from Tingarenagar to airport which requires to be separated by raising a good permanent wall in order to protect old and new trees also from security point. We fail to understand as to why this was not noticed by the officials of the jail including the I.G.(Prisons) whose headquarters is at Pune. We are therefore, disposing of this petition with a direction to the Home Department to take immediate steps to erect a permanant wall as suggested in the Commissioner's report and in future if any tree or its branches are required to be cut, permission of the tree authority should be obtained. We may further direct that the I.G.(Prisons) would direct the Superintendent of Prisons of all prisons in the State of Maharashtra to conduct the census of trees in the premises of the jail and the land appurtenant to jail which vests in the State so that no illicit felling of trees takes place and it can always be verified from the census report. Needless to say that the

census of trees would also record the botanical name of the tree, its age and other aspects like girth etc so as to preserve and maintain the trees and prevent illicit felling of trees.

5. It is noted that the authorities are always at the receiving end, but here is an occasion. Therefore, we record our appreciation for the prison authorities of Yerwada Central Prison, Pune having taken up the plantation of trees. We hope that other prison authorities would follow the example. Learned counsel for the prisoner has expressed that the jail authorities may have vindictive attitude towards the prisoner who has complained to this Court about the illicit falling of trees. The learned A.P.P. assures us that there will be no harassment to the prisoner on this count.

6. Petition is disposed of accordingly.

7. We expect the learned A.P.P. to forward a certified copy of this order along with the Commissioner’s report to the Home Department, i.e. Principal Secretary (in-charge of jails),

Government of Maharashtra, Mumbai, the I.G.(Prisons) M.S. for complying with the directions issued by this Court.

(Smt Roshan Dalvi,J) **(J.N.Patel, J)**